GOVERNMENT OF MYSORE

LABOUR AND MUNICIPAL ADMINISTRATION DEPARTMENT, (LABOUR)

Labour Dispute.—Industrial Dispute between the workmen and the management of M/s. B. R. Darbar Ginning and Pressing Factory, Hubli.

Award of the Labour Court, Hubli—published.

Read the following papers :

(1) Letter No. R. 15-64/66-67/257, dated 7th March 1967, from Shri Syed Azizuddin Ahmed, Presiding Officer, Labour Court, Hubli.

IN THE LABOUR COURT AT HUBLI

Dated 6th March 1967

Reference (ID) (LCH) No. 15 of 1964

Present :

Sri Syed Azizuddin Ahmed, M.A., B.L., Presiding Officer.

Between .

The Workmen of M/s. B. R. Darbar Ginning and Pressing Factory, Hubli. .. *I Party*

and

The Management of M/s. B. R. Darbar Ginning and Pressing Factory, Hubli. .. *II Party*

This is a reference under Section 10 (1) (c) of the Industrial Disputes Act, 1947, made by the Government of Mysore in their Order No. PLM 44 LLD 64, dated 3rd April 1964. The points of dispute referred for adjudication are as under :—

(1) Whether Sri L. G. Patil is entitled to get the lump-sum payment of Rs. 10,000 after the sale of the Hassan Factory

to one Sri Hanume Gowda of Hassan or not from Sri B. Darbar ? If not what other benefits he is entitled to ?

(2) Whether Sri L. G. Patil is entitled to get Rs. 2,500 that is in the name of Patil & Sons, Hassan, from Sri B. R. Darbar or not ? If not to what other benefits he is entitled to ?

(3) Whether Sri L. G. Patil after the nominal sale Hassan Factory. is entitled for pay at Rs. 150 p.m. or not from Sri B. R. Darbar, with free house, water and light facility ? If not; for what other relief he is entitled to ?

(4) Whether Sri L. G. Patil is entitled to restoration of water and light service to the house in which he lives, from Sri B. R. Darbar or not from the date of disconnection. If not for what other benefits he is entitled to ?

(5) Whether Sri L. G. Patil is entitled for retiring gratuity from Sri B. R. Darbar if Sri L. G. Patil is not to be continued in service by Sri B. R. Darbar after the decision of this case in the Labour Court ? If not to what other benefits he is entitled to by occupying the said House in which Sri L. G. Patil lives ?

2. The cause of the aggrieved workman has been sponsored and espoused by The Rashtriya Grama Mazdoor Sangh, Hubli, represented by its Joint Secretary. Sri M. A. Kutty, as Joint Secretary appeared for the I Party while the II Party is represented by its Proprietor Sri Bapudas Ramdas Darbar. In response to the notice issued by this Court, the parties have filed their pleadings dated 1st May 1964.

3. This is a very simple reference. Sri L. G. Patil masquerading in the garb of a workman has succeeded in securing a reference from the Government. Briefly stated, his case is that he joined the service of R. V. Darbar Ginning Factory, Hubli, during the year 1930 on a monthly salary of Rs. 30. He used to maintain books of account and supervise the machinery of the factory and its working. By about 1954 his salary rose to Rs. 150 per month. The proprietor of R. V. Darbar Ginning Factory, Hubli, had a Saw-mill at Hassan, which was running at a loss. The son of the Proprietor Sri B. R. Darbar deputed him to Hassan to attend to the Saw-

mill work. He asked him to improve the Saw-mill, to sell it at any cost subject to the condition that he should pay the proprietor Rs. 15,000 and take for himself any amount in excess (*vide* the sworn statement of the workman). In the year 1962 Sri B. R. Darbar sold the mill to Hanume Gowda of Hassan for Rs. 25,000. After the completion of the sale, he wrote a letter to Sri B. R. Darbar to pay him the excess amount of Rs. 10,000 and the amount of Rs. 2,500, which was lying in his name with the II Party. He kept on promising to pay him the amount for about 5—6 months and finally disowned his liability to pay the amount. He was given free of rent quarters in the Darbar Ginning Factory, Hubli, and his family used to reside there. The management used to supply him free oil, fire-wood, fuel, water and electricity. These facilities were continued till January 1963. The money value of these amenities would be Rs. 50 p.m. Later these facilities were discontinued and a suit was filed against him for eviction of the quarters. The management did not discontinue his services and he did not resign his job. It was prayed that an award be passed in his favour (*a*) for payment of Rs. 10,000 by the management and in the alternative for the payment of salary at the rate of Rs. 150 p.m. from 1954, (b) for the payment of Rs. 2,500 by way of salary accumulated prior to 1954, (*c*) restoration of free supply of fuel, water and light, (*d*) compensation in money on account of the illegal stoppage of the facilities by way of supply of water, fuel and light from March 1963, up to the date of restoration and finally in case his services are terminated for an order for payment by way of gratuity at the rate of Rs. 150 per each year of service and also for the facilities of the free residential quarters with free supply of water, fuel and light for a period of one month for each year of service or its equivalent money value. A very ambitious claim indeed !

4. The management contravened the claim allegations point by point. The sheet anchor of the defence is that since after 1954, there is no relationship of employee and employer between the management and the workman. Hence, this court has no jurisdiction to hear the matter. The claim statement is false and fictitious and is a figment of imagination of the workman. The dispute has been raised as a counterblast to the civil suit for eviction of the quarters. In addition to

the points of dispute specified in the order of reference, the following additional issue was raised :—

Whether the reference is illegal and *ultravires* and whether this Court has jurisdiction to hear it.

The parties examined one witness each and closed their oral evidence. 21 documents were marked as Exhibits on behalf of the I Party and 16 on behalf of the II Party.

FINDINGS

Issue No. 6 :—

I shall discuss this legal issue first. The stand of the II Party is that Sri L. G. Patil was in its service from 1930 till the year 1954 when he voluntarily gave up his job. The stand of the workman is amorphous. From the reliefs he has asked for it can be seen that he claims to be still in the service of the management while to a specific question put in the cross-examination, he deposed 'I cannot say whether I am working with the management now, but I am there.' The entire claim statement has a look of incredulity. There seems to be substantial truth in the averment of the II Party that this dispute has been raised by Sri L. G. Patil as a counter-blast to the civil suit he had filed against him in the Court of the Second Additional Munsiff at Hubli for eviction of the quarters occupied by the workman in the premises of the factory. A copy of the judgment passed in the Civil Suit (Long Cause—Suit No. 79/1963 marked Ex. M-10) has been filed. The 4th issue raised in the civil suit was "Does the defendant prove that he is still in the service of the plaintiff and as a condition of service of the plaintiff, the defendant was given free quarters, fuel and oil ?" The parties appear to have adduced copious evidence in the civil suit. The learned Munsiff in a well-reasoned judgment has observed on the 4th issue "My finding is that the defendant is not in the service of the plaintiff and that he is not enitled to free quarters, free fuel or oil any longer after the year 1954." This finding tolls the death-knell of the workman's claim. The parties are bound by this finding. Barring the self-serving testimony and the shapeless claim statement, there is nothing on the record before me to hold that the workman continues to be in the service of the

management and that the employee and employer relationship subsists between them. In this view of the matter, the reference does not survive. I have no hesitation in holding that this Court has no jurisdiction to hear the same.

5. As the case record is complete, I shall record my findings on the points of dispute specified in the order of reference.

Point No. 1 :—

In his examination-in-chief, the aggrieved workman stated in inambiguous terms that it was B. R. Darbar, the son of the proprietor, who had asked him to go to Hassan, to improve the saw-mill and sell it at any cost subject to the condition that he should pay the proprietor Rs. 15,000 and retain for himself any amount in excess. Firstly, the proprietor cannot be legally saddled with the responsibility to carry out a promise made by his son. Secondly, it is too naive of the workman to ask the Court to believe that he relied upon the promise made by the son of the proprietor. As a reasonable and prudent man, he ought to have placed this before the proprietor and taken a written document to vouchsafe the deal. Besides, this transaction cannot be regarded as a condition of service. It is an extraneous matter and cannot be tried in this forum. It is not as though the workman is not alive to this aspect of the matter. In paragraph 15 of his claim statement, he himself says in case the Court comes to the conclusion that the agreement to pay the amount of Rs. 15,000 is not a condition of service, Party No. 1 without prejudice to his contentions, submits that he is entitled to his salary at the rate of Rs. 150 p.m. for the period from the date of his starting to supervise the saw-mill to this day as he has all along been working as an employee of Party No. 2. There is a specific finding of the learned Additional Munsiff on this aspect of the matter also. In paragraph 10 of his judgment he has observed "I am, therefore, not inclined to believe the story that the defendant ever entered into a fresh agreement with the plaintiff that they should share with him a part of the sale proceeds of the mill". "On the third issue my finding is that plaintiffs terminated the service of the defendant in September 1954 and that he is no longer in service of the plaintiffs from that date". These findings of the civil court throw overboard the claim of the workman that he is entitled to get a lumpsum payment of Rs. 10,000 from the management.

Point No. 2 :—

The aggrieved workman claims that he is entitled to receive an amount of Rs. 2,500 being the accumulated salary standing to his credit in the Ginning Factory, Hubli. This amount was transferred on the instruction of the II Party to the account of the saw-mill at Hassan to his credit. The aggrieved workman could not withstand the cross-examination. The truth trickled from his mouth when he stated that this amount does not relate to his salary. Obviously, he is nonplussed, he is in a dialemma as to what to say and what not to say. Obviously, this appears to be a false claim.

Point Nos. 3 and 4 :—

These two points are interlinked and can be disposed off together. There are clear findings of the Civil Court that the workman is not in the service of the management and is not entitled to free quarters, free fuel or oil any longer after the year 1954. His occupation of the quarters subsequent to the year 1954 is under leave and licence from the management and that he is liable to be evicted from the quarters, which is in his occupation. The Court has held that the management are entitled to get physical possession of the quarters from the workman. In view of these clear findings, it cannot be held that the workman is entitled for pay at Rs. 150 p.m. from the management or that he is entitled to restoration of fuel, water and oil, to the quarters which is now in his possession. None of the documents filed by the workman substantiate his claim that the employee and employer relationship continued between the parties since after 1954.

Point No. 5 :—

As a natural corollary to my findings on the points specified above, the workman cannot be held entitled for any retiring gratuity. There is nothing on the record to show that the scheme of payment of gratuity was ever introduced by the management and was being implemented there.

AWARD

1. It is held that Sri L. G. Patil is not entitled to get the lumpsum amount of Rs. 10,000 from Sri B. R. Darbar after the sale of the Hassan Factory to one Sri Hanume Gowda of Hassan.

2. Sri L. G. Patil is not entitled to get Rs. 2,500 from the management.

3. Sri L. G. Patil is not entitled for the payment of Rs. 150 p.m. by Sri B. R. Darbar nor is he entitled to free house, water and light facility.

4. Sri L. G. Patil is not entitled to restoration of water and light service to the house in which he lives.

5. Sri L. G. Patil is not entitled for retiring gratuity from Sri B. R. Darbar. He is not entitled to any relief at the hands of the management.

In view of the circumstances of the case, the parties shall bear their own costs.

Place : Hubli.

Date : 6th March 1967.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

ANNEXURE

REFERENCE (ID) (LCH) No. 15 OF 1964

Witnesses examined for I Party.

W.W. 1.. Lingangouda Gadsigeppagouda Patil.

Witnesses examined for II Party.

M.W. 1 .. Bapudas Ramdas Darbar.

Documents marked for I Party.

Exhibits :

W—1 .. Letter dated 7th February 1952 from R. V. Darbar, Bagalkot to R. V. Darbar, Hubli (in Marathi).

W—2 .. Letter dated 3rd August 1953 to R. V. Darbar, Bagalkot from L. G. Patil, Hassan.

Exhibits

W—3 .. Letter dated 5th August 1953 from R. V. Darbar, Bagalkot to Patil & Company, Hassan, haste L. G. Patil (in Marathi) .

W—4 .. Letter dated 5th August 1953 to R. V. Darbar from L. G. Patil, Hassan.

W—5 .. Letter dated 10th August 1953 from R. V. Darbar, Bagalkot to Patil & Co., Hassan, haste L. G. Patil (in Marathi) .

W—6 .. Letter dated 13th August 1953 to R. V. Darbar, Bagalkot from L. G. Patil.

W—7 .. Letter dated 17th August 1953 from R. V. Darbar, Bagalkot to Patil & Co., Hassan (in Marathi) .

W—8 Telegram from Bapudas to Patil & Co., Hassan, dated 29th August 1953.

W—9 .. Telegram from Ramdas to Darbar Gin, Hubli, dated 12th November 1953.

W—10 .. Letter dated 4th August 1962 from Regional Director, E.S.I.C., Bangalore, to Sri Bapudas Ramdas (Prop.) M/s. Patil & Co., Hassan.

W—11 .. Note from B. R. Darbar to L. G. Patil regarding visit of Inspector of E.S.I.C. Bangalore, dated 4th August 1962.

W—12 .. Letter from Regional Director, E.S.I.C. Bangalore, dated 25th September 1962 to L. G. Patil, Hubli.

W—13 .. Challan dated 14th April 1961 in State Bank of India, E.S.I. Fund Account No. 1 pay in slip.

W—14 .. Challan dated 13th May 1961 in State Bank of India, E.S.I. Fund Account No. 1 pay in slip.

W—15 .. Letter dated 7th June 1954 written from Patil & Co., Hassan to L. Patil, Hubli.

W—16 .. Letter dated 5th February 1962 from R. V. Darbar, Bagalkot to Patil & Co., Hassan.

W—17 .. Bill No. 454, dated 6th August 1946 of Sarasvati Slate Works, Lokapur.

W—18 .. Bill No. 455, dated 6th August 1946 of Sarasvati Slate Works, Lokapur.

Exhibits

W—19 .. Statement dated 30th November 1963 of B. Darbar in Complaint No. 90/63.

W—19 (*a*) Signature of Sri B. R. Darbar at Ex. W—19.

W—20 .. Conciliation proceedings before A.L.C. Hubli, dated 31st January 1964.

W—21 .. One bundle of Day Book extract copies of Patil & Co., Hassan for the year 1952-53 (page 1—80).

Documents marked for II Party

M—1 .. Certified copy of the letter dated 28th September 1962 by Sri L. G. Patil to B. R. Darbar asking for marble stone and oil engine, bed, etc.

M—2 .. Certified copy of reply dated 28th September 1962 given by B. R. Darbar as per draft by L. G. Patil to B. S. Ramaswami, Pleader, Hassan.

M—3 .. Certified copy of the notice by B. S. Ramaswami, pleader, Hassan to B. R. Darbar, Bagalkot.

M—4 .. Certified copy of the letter dated 3rd December 1951 by L. G. Patil to B. R. Darbar.

M—5 .. Certified copy of reply dated 12th April 1962 by L. G. Patil to B. R. Darbar.

M—6 .. Certified copy of letter dated 3rd July 1962 by L. G. Patil to Executive Engineer, Electrical Division, Hassan.

M—7 .. Certified copy of letter dated 24th November 1954 by L. G. Patil to B. R. Darbar.

M—8 .. Hundi dated 13th January 1949, drawn by Patil & Co., Hassan for Rs. 4,000.

M—9 .. Certified copy of reply letter dated 30th January 1962 by L. G. Patil to B. R. Darbar.

M—10 .. Certified copy of judgment in L. C. Suit No. 79/1963, dated 28th February 1966.

M—11 .. Certified copy of deposition in the above suit, dated 11th November 1965.

M—12 .. Certified copy of the deposition of L. C. Suit No. 79/63, Ex. 138.

Exhibits

M—13 .. Original conciliation proceedings dated 31st January 1964—between I Party and II Party.

M—14 .. Certified copy of lease deed dated 2nd December 1947.

M—15 .. Original of sale deed by L. G. Patil, dated 4th July 1962.

M—16 .. Certified copy of sale memo dated 4th July 1962 of Patil & Co., Hassan.

SYED AZIZUDDIN AHMED,
Presiding Officer,
Labour Court, Hubli.

Place : Hubli.
Date : 6th March 1967.

ORDER

Bangalore, dated 25th March 1967

S O. 692.—WHEREAS by State Government Order No. PLM 44 LLD 64, dated 3rd April 1964 the Industrial Dispute between the Workmen and the Management of M/s. B. R. Darbar Ginning and Pressing Factory, Hubli, was referred to the Labour Court, Hubli for adjudication ;

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. PLM 44 LLD 64]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,
Under Secretary.